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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,860	03/17/2004	Jeffrey Wallace Carter	40306-0001	6537
37526	7590	12/12/2005		
RADER, FISHMAN & GARAUER PLLC 10653 SOUTH RIVER FRONT PARKWAY SUITE 150 SOUTH JORDAN, UT 84095				
			EXAMINER DOOLEY, JAMES C	
			ART UNIT 3634	PAPER NUMBER

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/803,860	Applicant(s) CARTER ET AL.	
	Examiner James C. Dooley	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a. Paragraph 29 lines 2-3, the phrase, "and between the front mounting members (340)" is repeated. One occurrence should be deleted.Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show a **"friction sleeve (360)"** as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are

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not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1 and 21 are objected to because of the following informalities:

- Claim 1, Line 3; "secured" should read --secure--.
- Claim 21, line 3; "comoposite" should read --composite--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, 10-14, 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Temple (US 2,723,036). Temple discloses a supplemental shelf featuring:

- b. A plurality of perimeter members (12)
- c. A plurality of lateral members (14)
- d. A plurality of front mount members (front legs, 15)
- e. A plurality of rear mounting members (rear legs, 15)

- f. Lateral members coupled to perimeter members (col. 2 ln. 19-21)
- g. Lateral and perimeter members form an enclosure (Fig. 1)
- h. Friction sleeves (24) on the front and rear mounting members (15)
- i. Distance between front and rear mounting lines is predetermined depending on mounting configuration (col. 2 ln. 41-43)
- j. All members made of steel (wire understood to disclose steel)
- k. Rack constrains more than 4 containers (11, col. 2 ln. 7-8)

With respect to the recitation "configured to at least partially secure said supplemental shelf with respect to a water management system...", it is noted that since this recitation is functionally reciting a water management system, a reference need not explicitly show use with such a system. Rather, a reference need only *be capable* of being used in such a way as claimed. Accordingly, the Temple reference is considered to be capable of functioning in the same way as claimed, therefore meeting the language of the claim.

With respect to the recitation "configured to at securely restrain a plurality of cleaning solution containers", it is noted that since this recitation is functionally reciting cleaning solution containers, a reference need not explicitly show use with such containers. Rather, a reference need only *be capable* of being used in such a way as claimed. Accordingly, the Temple reference is considered to be capable of functioning in the same way as claimed, therefore meeting the language of the claim.

Applicant is referred to *In re Schreiber*, wherein it is stated, "While features of an apparatus may be recited either structurally or functionally, claims <directed to >an< apparatus must be distinguished from the prior art in terms of structure rather than function. (44 USPQ2d 1429, 1431-32)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9, 15, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Temple alone. Temple discloses a supplemental shelf having the features described above. Temple does not disclose alternate materials, other than wire, from which the rack could be made. Plastic and composites are well known materials commonly used for the construction of shelves and racks. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to also consider materials other than steel for the construction of the shelf of Temple. The motivation being that plastics and composites are well-known materials.

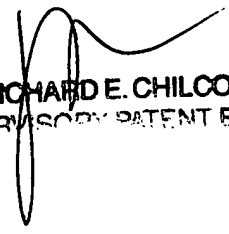
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


12/08/2005


RICHARD E. CHILCOT, JR.
SUPERVISOR, PATENT EXAMINER